IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Court No.3

Criminal Revision No. 690/ 2001
(Old No. 2037/1985)

Hari Singh Bisht ...Revisionist.

Vs.

State and others ...Respondents.

Hon'ble Irshad Hussain, J.

Heard Sri Lokendra Dobhal learned counsel for the revisionist and Sri Lalit Verma learned A.G.A. for the State.

2- This is a criminal revision under section 397 of the Code of Criminal Procedure against the judgment dated 13-9-1985 passed by the then Sessions Judge Pithoragarh in criminal revision No. 20/1985 whereby the conviction under section 268 read with section 290 I.P.C. awarded to Ram Lal and Mohan Lal, respondent Nos. 2 and 3 in criminal case No. 657/1982 was set aside and they were acquitted of the charges against them.

3- Having heard the learned counsel for the parties and considered the judgments of both the lower courts I am of the view that the learned Sessions Judge has properly appraised the evidence adduced on behalf of the prosecution and no illegality was committed in setting aside the conviction as recorded by the learned Magistrate. In the case the evidence of Chandra Ballabh Pandey, a clerk of the P.W.D. Pithoragarh examined on behalf of the respondent had assumed significance because from the record it was proved that the alleged constructions were raised by the respondents-accused on their own plot without obstructing the public road of any passage.

4- Considering this, the above order of the learned Sessions Judge was fully justified and this revision is devoid of merit and is hereby dismissed.

(Irshad Hussain, J.)

Dated: 19-11-2003

ISB